

REMARKS

In the Office Action, the Examiner has withdrawn claim 22 from consideration as being directed to a non-elected invention. Further, the Examiner has rejected claims 1-5, 8-9, 21, and 23-28 under 35 USC § 102 as being anticipated by Pike et al. (US 5,695,506). Previously, claims 16-20 were withdrawn from consideration.

Claims 1-5, 8-9, and 16-28 remain pending.

In response to the withdrawal of claim 22, the Applicants first note that claim 1 requires that each slit portion extend azimuthally for an arc length greater than 180 degrees. Further, the Applicants note that claim 22 requires that each non-slit portion extend for an arc length of about 170 degrees. Accordingly, claim 22 is not independent or distinct from the invention originally claimed, and the withdrawal of claim 22 is improper.

Also, the rejection of claims 1-5, 8-9, 21, and 23-28 under 35 USC § 102 is improper. As is well known, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In the present case, the Examiner has improperly cited Figs. 5-6 of Pike et al. as disclosing a catheter articulation segment including all the elements set forth in the claims.

For instance, claim 1 for the present invention requires that each first slit portion and each second slit portion lie in planes substantially perpendicular to the axis. Further, this same claim 1 requires that each slit portion extend for an arc length greater than 180 degrees. Similarly, claim 23 for the present invention requires first slits and second slits that extend for an arc length greater than 180 degrees and lie in a plane substantially perpendicular to the tube axis.

Unlike the claimed invention, in which a plane perpendicular to the tube axis may include only a single slot, Pike et al. in Fig. 5 discloses a tube in which planes perpendicular to the tube axis have pairs of equal-length slots. As a result, the paired equal-length slots necessarily have arc lengths of less than 180 degrees. Indeed, Fig. 6 illustrates the first and second end of each rear-side slot (48 in Fig. 5), as well as the first end of each upper-side slot (78 in Fig. 5) and the second end of each lower-side slot (50 in Fig. 5). As can be seen in Fig. 6, the slots do not have arc lengths greater than 180 degrees.

For the reasons set forth above, Applicants contend the bases for rejecting claims 1-5, 8-9, 21, and 23-28 for being anticipated have been traversed by argument and should be withdrawn.


In conclusion, Applicants respectfully assert that claims 1-5, 8-9 and 16-28 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Telephone Interview: Prior to Appeal

In the event the Examiner determines not to advance the instant application to issue, Applicants request a telephone interview with Examiner's Supervisor at the earliest mutually convenient time. The intended purpose of this telephone interview is to more specifically identify the issues that will need to be resolved on appeal.

Dated this 20th day of July, 2007.

Respectfully submitted,

  
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